



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Action Property Management Group Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 2:19 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 2:00 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Landlord LD testified that she posted the first 10 Day Notice to End Tenancy for Unpaid Rent (the first 10 Day Notice) on the tenant's door at 1:30 p.m. on December 3, 2013. She also testified that she posted the second 10 Day Notice on the tenant's door at 11:07 p.m. on January 2, 2014. Landlord WS (the landlord) testified that the landlords sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on January 15, 2014. She provided the Canada Post Tracking Number to confirm this mailing. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

At the hearing, the landlord noted that the tenant has failed to pay rent for February 2014, in addition to the rent owing for the previous two months. She requested an increase in the monetary award from \$1,950.00 to \$2,925.00, accordingly. I have revised the amount of the requested monetary award to \$2,925.00.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy began on November 1, 2013. Monthly rent is set at \$975.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$487.50 security deposit paid on November 1, 2013.

The landlord testified that no payments have been made by the tenant since the first 10 Day Notice was issued.

Analysis

The tenant failed to pay the \$975.00 amount identified as owing in the first 10 Day Notice in full within five days of being deemed to have received the 10 Day Notice on December 6, 2013. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of December 6, 2013. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of her tenancy on the corrected effective date of the first 10 Day Notice. In this case, this required the tenant to vacate the premises by December 16, 2013. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the landlord's undisputed written evidence and sworn testimony, I find that the landlord is entitled to a monetary award of \$975.00 for each of December 2013, January 2014 and February 2014. As the landlord has been successful in this application, I allow the landlord to recover the filing fee for this application from the tenant.

Although the landlord's application does not seek to retain the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent and the filing fee and to retain the security deposit:

Item	Amount
Unpaid December 2013 Rent	\$975.00
Unpaid January 2014 Rent	975.00
Unpaid February 2014 Rent	975.00
Less Security Deposit	-487.50
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$2,487.50

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 05, 2014

Residential Tenancy Branch

